

Appl. No. 09/996,663  
Atty. Docket No. 8794  
Resp. dated 2/10/05  
Reply to Office Action of 12/15/2004  
Customer No. 27752

Rejection under 35 USC §112 second paragraph:

The Office Action has rejected claims 1 - 20 under 35 USC §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully traverse this rejection.

The Office Action does not provide that any of the claim language is ambiguous or indefinite. The Office Action provides that there is insufficient structure set forth in the claims to determine a container body or the ramp, how the ramp defines more than one plane, and the ramp's function with respect to the other parts of the container.

Applicants respectfully submit that the claims satisfy the requirements of 35 USC §112 second paragraph as written. Claim 1 provides the elements of an embodiment of the invention and describes the structural relationship of those elements clearly and distinctly. Applicants claim:

A container body, a cover, a reclosable fastener having a first end and a second end, disposed between the container body and the cover and adapted to fasten the cover to the container. Applicants further claim a track comprising a fastener portion on the reclosable fastener a ramp extending from the first end of the reclosable fastener, and a slider movable along the track to open or close the reclosable fastener.

Applicants' claim language provides a clear description of the structure of the invention. The ramp is disposed at the first end of the track which is a portion of the reclosable fastener which is adapted to fasten the cover to the body. A ramp by definition defines more than one plane as a ramp connects a first planar surface with a second planar surface. Applicants submit that 35 USC §112 does not require a description of the function of each element with respect to the other elements recited.

Applicants request that the rejection of claim 1-20 under 35 USC §112 be reconsidered and withdrawn.

Rejection under 35 USC §102(b) over Hupp 01/51378

The Office Action rejects claims 1-20 under 35 USC §102(b) over Hupp (WO 01/51378). Applicants respectfully traverse this rejection. To anticipate a claimed invention a reference must teach or suggest every claimed limitation. The cited reference does not

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teach or suggest a ramp as part of a track that is in turn part of a releasable fastener adapted to fasten a cover and a container body.

The Office Action points to reference number 64 as disclosing a ramp in the reference. Reference number 64 is used to identify an auxiliary track that is not operatively juxtaposed with the seal (see Hupp page 10 lines 35-36). Nothing in the Hupp reference teaches or discloses that the auxiliary tracks 64, or any other portion of the track 62, is not in the plane of the reclosable fastener. Specifically, nothing in the reference teaches or suggests the existence of a ramp extending from an end of the track.

Applicant's respectfully request that Figure 2 of the reference be compared with Figures 3, 4, 5a and 5b of the application. Figure 2 of the reference illustrates the plane of the fastener and shows that the track 62 and auxiliary track 64 lie in the plane of the fastener.. Figures 3 and 4 of the application illustrate the plane of the fastener of one embodiment of the invention as claimed. Figures 5a and 5b illustrate the deviation by the ramp 65 from the plane of the first end of the fastener. Nothing in the reference teaches or suggests anything other than a planar relationship between the track and the auxiliary track. Nothing in the reference teaches or suggests a relationship between the auxiliary track and the track in the nature of a ramp.

With regard to claim 17, the Office action provides that the reference teaches a portion of the fastener lying in multiple planes thereby defining multiple planes. Applicants respectfully point out that claim 17 is directed to a container wherein a reclosable fastener fastens the cover of the container to the body of the container around at least a portion of the perimeter of the container and that the fastened portion of the perimeter defines more than one plane. Nothing in the Hupp reference teaches or suggests a container having a perimeter defining more than one plane, or a fastener capable of fastening the container body to the cover along such a perimeter. The reference fails to teach or suggest all of the recited claim limitations. The perimeter of the container of the reference lies in a single plane.

Applicants submit that the cited reference does not teach or suggest all of the recited claim limitations and respectfully request that the rejection of claims 1-20 under 35 USC §102(b) in view of Hupp (WO 01/51378) be reconsidered and withdrawn.

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Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 USC §§ 112, 102(b). Early and favorable action in the case is respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By 

David K. Mattheis  
Attorney for Applicant(s)  
Registration No. 48,683  
(513) 634-7419

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